

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

DURAVEST, INC.,

Plaintiff,

v.

VISCARDI, A.G., WOLLMUTH MAHER
& DEUTSCH, LLP, MASON H. DRAKE,
ESQ., BRUCE O'DONNELL, CPA,
BRUCE O'DONNELL CPA/PFS, P.A.,
BIOMEDICAL CONSULTANTS SL,
RICHARD MARKOLL, and ERNESTINE
BINDER MARKOLL,

Defendants.

Civil Action No. 07 Civ. 10590 (JSR)

DECLARATION OF ERNESTINE BINDER MARKOLL

ERNESTINE BINDER MARKOLL makes this declaration under penalty of perjury and, unless otherwise stated, based upon personal knowledge:

1. I am over the age of 18, and am competent to make this declaration. The statements in this declaration are within my personal knowledge and are true and correct to the best of my knowledge and belief.

2. I was born in 1956 and am 52 years of age.

3. I reside in Spain, at 5 El Greco, 07157 Puerto D'Andratx with my husband of 13 years, Richard Markoll. I have resided in Europe continuously since approximately April 1996 and have resided in Spain since December 2005.

4. I was born and raised in Regensburg, Germany. In 1974, I left Germany and traveled to the United States with Richard Markoll. In approximately 1976, I returned to Europe

until 1983, when I accompanied Richard Markoll who was studying medicine at University of St. Lucia, West Indies, and later at the University of Health Sciences, in Antigua, West Indies.

5. Thereafter, in 1985, I moved to Litchfield, Connecticut, with Richard Markoll who was in resident medical training in Baltimore and later in Connecticut.

6. In 1986, I left the United States and returned to Europe, accompanying Richard Markoll who did additional medical training in nephrology and gastroenterology in Munich.

7. In May 1994, I decided to relocate to Florida with Richard Markoll, where I remained until April 1996, when I returned to Germany. I have remained a resident of Europe ever since.

8. Since 1976, I have not resided in the State of New York.

9. Since 1976, I have never owned or leased any real property in the State of New York.

10. Since 1976, I have not maintained any office or mailing addresses in the State of New York.

11. I have had no telephone listing in the State of New York.

12. I have not maintained any bank accounts in the State of New York.

13. I have had no employees or agents in the State of New York.

14. I have not maintained any records in the State of New York

15. I have not applied for, nor received, nor maintained any license or permit from the State of New York. I have transacted no business in the State of New York in a personal capacity.

16. I have never been registered to do business in the State of New York.

17. I have never advertised nor solicited any business in any newspaper or media outlet located within the State of New York.

18. I have reviewed paragraphs 21 through 26 of the Declaration of Richard Markoll, which addresses the transaction by which Duravest, Inc. acquired Bio-Magnetic Therapy Systems, Inc. (“BMTS, Inc.”). Those paragraphs are true and accurate.

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Pursuant to 28 U.S.C. § 1746, I certify under penalty of perjury that the foregoing is true and correct. I am aware that if any of the foregoing statements made by me are willfully false, I am subject to punishment.

DATED: August 25, 2008

Ernestine Binder Markoll
ERNESTINE BINDER MARKOLL